

The Hon. James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff,
v.
NICHOLAS FARMER,
Defendant.

NO. CR23-031-JLR

~~PROPOSED~~

**PRELIMINARY ORDER
OF FORFEITURE**



THIS MATTER comes before the Court on the United States' Motion for Preliminary Order of Forfeiture ("Motion") seeking to forfeit, to the United States, Defendant Nicholas Farmer's interest in the following property:

- a. One Samsung Galaxy A71 phone, model SM-A716U1, serial number R5CN715KYER, IMEI 354815110392480, seized from Nicholas Farmer in or about December 2021.

The Court, having reviewed the United States' Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS entry of a Preliminary Order of Forfeiture is appropriate because:

- The above-identified property is forfeitable pursuant to 18 U.S.C. § 2253(a) as property the Defendant used to commit or facilitate his commission of Access

1 with Intent to View Child Pornography, in violation of 18 U.S.C.

2 § 2252(a)(4)(B) and (b)(2); and,

- 3 • Pursuant to the Plea Agreement he entered on March 14, 2023, Defendant
4 agreed to forfeit this property pursuant 18 U.S.C. § 2253(a). Dkt. No. 8, ¶¶ 9,
5 13.

6
7 NOW, THEREFORE, THE COURT ORDERS:

8 1. Pursuant to 18 U.S.C. § 2253(a) and his Plea Agreement, the Defendant's
9 interest in the above-identified property is fully and finally forfeited, in its entirety, to the
10 United States;

11 2. Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
12 be final as to the Defendant at the time he is sentenced, it will be made part of the
13 sentence, and it will be included in the judgment;

14 3. The United States Department of Homeland Security Investigations
15 ("HSI"), and/or its authorized agents or representatives, shall maintain the property in its
16 custody and control until further order of this Court. HSI shall destroy any prohibited
17 images unless they have been destroyed already or will be retained for official,
18 investigative use, as permitted by 21 U.S.C §§ 853(i) and 881(e);

19 4. Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
20 United States shall publish notice of this Preliminary Order and its intent to dispose of the
21 property as permitted by governing law. The notice shall be posted on an official
22 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
23 any person known to have alleged an interest in the property, the United States shall, to
24 the extent possible, provide direct written notice to that person. The notice shall state that
25 any person, other than the Defendant, who has or claims a legal interest in the property
26 must file a petition with the Court within sixty (60) days of the first day of publication of
27 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)

1 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
2 interested persons that the petition:

- 3 a. shall be for a hearing to adjudicate the validity of the petitioner's alleged
4 interest in the property;
5 b. shall be signed by the petitioner under penalty of perjury; and,
6 c. shall set forth the nature and extent of the petitioner's right, title, or interest
7 in the property, as well as any facts supporting the petitioner's claim and
8 the specific relief sought.

9 5. If no third-party petition is filed within the allowable time period, the
10 United States shall have clear title to the property, and this Preliminary Order shall
11 become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

12 6. If a third-party petition is filed, upon a showing that discovery is necessary
13 to resolve factual issues it presents, discovery may be conducted in accordance with the
14 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
15 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
16 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
17 adjudication; and,

18 7. The Court will retain jurisdiction for the purpose of enforcing this
19 Preliminary Order, adjudicating any third-party petitions, entering a Final Order of
20 Forfeiture, and amending the Preliminary Order or Final Order as necessary pursuant to
21 Fed. R. Crim. P. 32.2(e).

22 IT IS SO ORDERED.

23 DATED this 12th day of May, 2023.

24
25 
26 THE HON. JAMES L. ROBERT
27 UNITED STATES DISTRICT JUDGE

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2 Presented by:

3
4 s/ Karyn S. Johnson

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